

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALVIN ROYBAL,
JERRY B. SANCHEZ, and
ANSELMO SMITH,

Plaintiffs,

vs.

Civ. No. 13-25 KG/KBM

CITY OF ALBUQUERQUE,
RICHARD J. BERRY, Mayor,
ROBERT PERRY, Chief Administrative Officer,
VINCENT YERMAL, Director of Human Resources,
MARY SCOTT, Deputy Dir. of Human Resources,
BRUCE RIZZIERI, Transit Department Director,
CITY LABOR-MANAGEMENT RELATIONS BOARD, and
PAULA I. FORNEY, Attorney.

ORDER DENYING AMENDED MOTION FOR CLARIFICATION

On November 11, 2013, Defendants City of Albuquerque, Richard J. Berry, Robert Perry, Vincent Yermal, Mary Scott, and Bruce Rizzieri (City Defendants) filed an Amended Motion for Clarification of the Court's November 7, 2013, Memorandum Opinion and Order, and Partial Dismissal and Partial Summary Judgment.¹ *See* (Docs. 63, 64, and 66). The November 7, 2013, Memorandum Opinion and Order addressed Defendants City of Albuquerque, Berry, Perry, Yermal, and Rizzieri's (Original City Defendants) January 30, 2013, Motion to Dismiss, or in the Alternative, Motion for Summary Judgment. That Motion concerned only claims Plaintiff Alvin Roybal raised in the original complaint. *See* (Doc. 16). On February 20, 2013, Plaintiff Roybal amended the complaint to add Plaintiffs Jerry B. Sanchez and Anselmo Smith as well as Defendant Mary Scott. (Doc. 26). The amended complaint does not contain any new claims although the factual bases for the Plaintiffs' claims differ to some degree. Since Plaintiff

¹ Plaintiffs did not respond to the Amended Motion for Clarification.

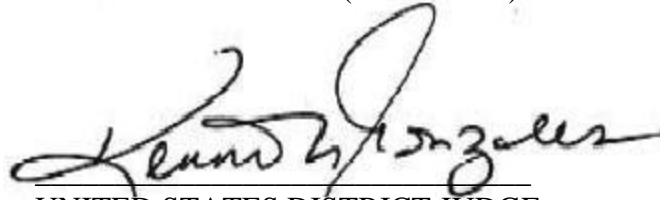
Roybal's claims and allegations remained the same in the amended complaint, the Court ruled on the Original City Defendants' January 30, 2013, Motion in the November 7, 2013, Memorandum Opinion and Order.

The City Defendants now move to expand the November 7, 2013, Memorandum Opinion and Order, along with the accompanying Partial Dismissal and Partial Summary Judgment, to include (1) dismissing claims against Defendant Scott or granting summary judgment in Defendant Scott's favor, and (2) dismissing Plaintiff Sanchez and Smith's claims or granting summary judgment against Plaintiffs Sanchez and Smith. The Court notes, as it did in the November 7, 2013, Memorandum Opinion and Order, that on March 26, 2013, the City Defendants filed a Motion to Dismiss the Amended Complaint, or in the Alternative, Motion for Summary Judgment which specifically addresses the newly added Plaintiffs and the newly added Defendant Scott. *See* (Doc. 63) at 2. *See also* (Doc. 41) at 4.

The purpose of the November 7, 2013, Memorandum Opinion and Order was to rule on the Original City Defendants' January 30, 2013, Motion and to, therefore, address only Plaintiff Roybal's claims against the Original City Defendants.² Because the City Defendants filed the March 26, 2013, Motion specifically directed to the new Plaintiffs and Defendant Scott, the Court will rule on that motion in due course and will consider, at that time, any facts unique to those new Plaintiffs and to Defendant Scott. Consequently, the Court will not expand the November 7, 2013, Memorandum Opinion and Order to include rulings regarding Defendant Scott and the new Plaintiffs. The Court, therefore, denies the City Defendants' Amended Motion for Clarification.

² The Court, however, granted summary judgment in favor of all Defendants on Counts 2 and 5 of the amended complaint because those counts were clearly subject to summary judgment as to all of the Defendants. *See* (Docs. 63 and 64).

IT IS ORDERED that the Amended Motion for Clarification (Doc. No. 66) is denied.



UNITED STATES DISTRICT JUDGE